

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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SYLVESTER JACKSON,

Plaintiff,

v.

RANDALL HEPP, ET AL.,

Defendants.

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ORDER

Case No. 16-cv-542-bbc

Plaintiff Sylvester Jackson has submitted a certified inmate trust fund account statement for the six month period preceding the complaint in support of the pending motion to proceed without prepayment of the filing fee. Plaintiff also submitted a motion to use his release account to pay the \$350 filing fee.

First, the court must determine whether plaintiff qualifies for indigent status and, if so, calculate an initial partial payment of the \$350 fee for filing this case.

In determining whether to allow a prisoner to proceed without prepayment, this court uses the formula set forth in 28 U.S.C. § 1915(b)(1). Using information for the relevant time period from petitioner's trust fund account statement, I find that plaintiff does not qualify as indigent and must prepay the \$400 fee for commencing this action. However, I will grant plaintiff's motion to use his release account to pay the full \$400 filing fee.

ORDER

IT IS ORDERED that:

1. Plaintiff Sylvester Jackson's motion to proceed without prepayment of the filing fee, dkt. 5, is DENIED.

2. Plaintiff's motion to use his release account to pay the full \$400 filing fee, dkt. 2, is GRANTED. Plaintiff is to submit a check or money order made payable to the clerk of court in the amount of \$400 or advise the court in writing why plaintiff is not able to pay on or before September 6, 2016.

3. If by September 6, 2016, plaintiff fails to pay the \$400 filing fee or show cause for failure to do so, plaintiff will be held to have withdrawn this action voluntarily and the case will be closed without prejudice to plaintiff filing this case at a later date.

4. No further action will be taken in this case until the clerk's office receives plaintiff's initial partial filing fee as directed above and the court has screened the complaint as required by the Prisoner Litigation Reform Act, 28 U.S.C. § 1915A. Once the screening process is complete, a separate order will issue.

Entered this 15th day of August, 2016.

BY THE COURT:

/s/  
PETER OPPENEER  
Magistrate Judge